

**STATE OF CALIFORNIA
REGIONAL WATER QUALITY CONTROL BOARD
CENTRAL COAST REGION**

STAFF REPORT FOR REGULAR MEETING OF DECEMBER 8-9, 2022

Prepared on November 11, 2022

ITEM NUMBER: 7

SUBJECT: Consideration of Proposed Waste Discharge Requirements Order No. R3-2022-0035, National Pollutant Discharge Elimination System (NPDES) General Permit for Discharges with Limited Threat to Water Quality (NPDES No. CA993004)

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KEY INFORMATION

Location: Locations throughout the Central Coast Region

Type of Discharge: Discharges to waters of the United States that contain minimal amounts of pollutants and pose little or no threat to water quality and the environment, including discharges of high-quality or treated groundwater generated during aquifer pumping tests, water supply well construction and maintenance activities, testing and operation of groundwater pump and treat systems, drinking water treatment systems, excavation dewatering, and pumping to contain groundwater plumes.

Estimated Volume: These discharges may be treated and discharged on either continuous or batch bases. Discharges of highly treated groundwater may not exceed 0.2 million gallons per day (MGD) for continuous discharges or 0.25 MGD for batch discharges up to 30 days. All other discharges must not exceed 0.3 MGD.

Existing Orders: Order No. R3-2017-0042, *General Permit for Discharges with Low Threat to Water Quality* (NPDES No. CAG993001) and Order No. R3-2016-0035, *General Permit for Discharges of Highly Treated Groundwater to Surface Waters* (NPDES No. CAG993002)

ACTION: Consider Waste Discharge Requirements Order No. R3-2022-0035

SUMMARY

The purpose of proposed Order No. R3-2022-0035, National Pollutant Discharge Elimination System (NPDES) *General Permit for Discharges with Limited Threat to Water Quality* (herein referred to as the proposed general permit), is to regulate limited-threat discharges from discrete point sources to waters of the United States in the Central Coast Region. Limited-threat discharges that may be authorized by this general permit are relatively pollutant-free discharges that pose little threat to water quality.

The proposed general permit consolidates two existing general permits. In addition to consolidating existing permits, the proposed general permit includes changes to effluent limits due to an updated interpretation of promulgated standards, clarifies and expands upon the use of the reasonable potential analysis in determining permit eligibility and compliance, and incorporates the State Water Resources Control Board's (State Water Board's) updated policy for toxicity provisions.

The proposed general permit can be found as Attachment 1 to this staff report. The Fact Sheet, seen in Attachment F of the proposed general permit, includes the legal requirements and technical rationale that serve as a basis for the requirements of the proposed general permit.

DISCUSSION

The Central Coast Water Board is given authority by 40 CFR § 122.28(a)(2)(ii) to issue general permits to regulate point-source discharges when the discharge source involves similar types of waste and requires similar effluent limits and monitoring requirements. Regulating these discharge types through the proposed general permit enables Central Coast Water Board staff to expedite the processing of permits, simplify the application process for dischargers, apply consistent requirements, better utilize limited staff resources, and avoid the expense and time involved in repetitive public permitting processes for similar types of limited-threat discharges.

Discharges that may be authorized by the proposed general permit are relatively pollutant-free discharges that pose little threat to water quality. Limited-threat discharges are generally defined as a planned, short-term, and minimized-volume discharges from definable projects that result in a point-source discharge to surface waters and that do not threaten the quality or beneficial uses of the receiving waters. Examples of categories of limited-threat discharges that may be authorized by this proposed general permit include, but are not limited to, the following:

- Discharges associated with water supply well installation, development, test pumping, disinfection, maintenance, testing, and purging.¹
- Discharges from fire-hydrant testing or flushing.
- Discharges associated with agriculture well testing.
- Discharges associated with reverse-osmosis reject water or membrane-filtrate reject water associated with advanced water treatment system operations.
- Discharges of highly treated groundwater extracted and treated for the purpose of cleaning up groundwater degraded by pollutants such as petroleum, perchlorate, chlorinated solvents, or PCBs.
- Brine from small seawater desalination facilities (ocean discharge only).
- Other similar types of wastes that do not pose a significant threat to water quality yet require an NPDES permit.

Changes from Existing Orders

Previously, two general permits issued by the Central Coast Water Board pursuant to 40 CFR § 122.28 have separately regulated low-threat discharges² and discharges of highly treated groundwater³ from groundwater extraction and treatment operations at spill and cleanup sites: *General Permit for Discharges with Low Threat to Water Quality* (Order No. R3-2017-0042, NPDES No. CAG993001) and *General Permit for Discharges of Highly Treated Groundwater to Surface Waters* (Order No. R3-2016-0035, NPDES No. CAG993002). The proposed general permit authorizes both low-threat discharges and discharges of highly treated groundwater from groundwater extraction and treatment operations and will supersede both Order No. R3-2017-0042 and Order No. R3-2016-0035. The Central Coast Water Board does not intend to renew the existing general permits, and dischargers currently enrolled in these permits will be automatically enrolled in Order No. R3-2022-0035. A list of dischargers currently enrolled in Orders Nos. R3-2017-0042 and R3-2016-0035 can be found in Attachment 2.

In addition to consolidating Orders Nos. R3-2017-0042 and R3-2016-0035, the proposed general permit includes the following changes:

- **Compound-Specific Effluent Limits:** Some of the effluent limits in the proposed general permit have been updated and are less stringent than the corresponding limits in the two orders it is replacing due to an updated

¹ The proposed general permit does not apply to discharges associated with community water supply systems. Discharges associated with community water supply wells, pipelines, and storage are covered under Order WQ 2014-0194-DWQ, *Statewide NPDES Permit for Drinking Water System Discharges to Waters of the United States*.

² Low-threat discharges are discharges that contain minimal amounts of pollutants and pose little or no threat to water quality and the environment

³ Groundwater is considered “highly treated” when the treatment system includes carbon filtration and/or bioreactors and meets the effluent limitations set forth in the applicable general permit.

interpretation of applicable promulgated standards, specifically chemical objectives contained in the *California Toxics Rule*⁴ and the *Water Quality Control Plan for the Central Coastal Basin*,⁵ which incorporate maximum contaminant levels (MCLs). A discussion of how these proposed new limits relate to anti-backsliding requirements is found in section 6.4.1 of the Fact Sheet. A summary of the effluent limits that have been updated is shown in tables G-5 and G-6 of the Fact Sheet.

- **Reasonable Potential Analysis:** The proposed general permit clarifies and expands upon language used in Order Nos. R3-2017-0042 and R3-2016-0035 regarding the use of reasonable-potential analyses in determining permit eligibility and compliance. Under certain conditions, the Executive Officer may allow the discharger to submit for Executive Officer approval a mixing-zone study and/or reasonable-potential analysis to determine receiving-water pollutant concentrations after the discharge mixes with the receiving water. If determined through the reasonable-potential analysis and/or mixing-zone study that the receiving-water pollutant concentration within the receiving water is less than or equal to the applicable receiving-water limitation, enrollment in the proposed general permit may be authorized with compliance measured in the receiving water. This provision only applies to discharges into receiving waters that are not effluent dominated. This updated provision allows the Central Coast Water Board to use the proposed general permit more effectively for a broader range of limited-threat discharges in a manner that is protective of water quality and the environment and precludes the need for individual permits.
- **Updated Toxicity Provisions:** The State Water Board's *State Policy for Water Quality Control: Toxicity Provisions* (Toxicity Provisions)⁶ proposes numeric water quality objectives for chronic and acute aquatic toxicity. The main goal of the Toxicity Provisions is to implement consistent, statewide water quality objectives for chronic and acute toxicity and adopt a program of implementation to achieve those objectives. The Toxicity Provisions incorporate a statistical approach to analyze test results that provide a transparent determination of toxicity with high confidence in those results and provide an incentive for dischargers to generate valid, high-quality test data.

The Toxicity Provisions were adopted by the State Water Board in October 2020. On October 5, 2021, the State Water Board adopted a resolution to confirm that the Toxicity Provisions were adopted as state policy for water quality control for all inland surface waters, enclosed bays, estuaries, and

⁴ <https://www.epa.gov/wqs-tech/water-quality-standards-establishment-numeric-criteria-priority-toxic-pollutants-state>

⁵

https://www.waterboards.ca.gov/centralcoast/publications_forms/publications/basin_plan/docs/2019_basin_plan_r3_complete_webaccess.pdf

⁶ https://www.waterboards.ca.gov/water_issues/programs/state_implementation_policy/docs/2021/2021-state-policy-toxicity-provisions.pdf

coastal lagoons of the state. The Office of Administrative Law approved the provisions on April 25, 2022. The provisions will automatically come into effect, as applied to NPDES permits, upon U.S. EPA approval. Implementation of provisions for toxicity control established in the 2005 *Statewide Implementation Policy* will remain in effect until the Toxicity Provisions are approved by U.S. EPA.

Human Right to Water

California Water Code section 106.3, subdivision (a) states that it is the policy of the State of California “that every human being has the right to safe, clean, affordable, and accessible water adequate for human consumption, cooking, and sanitation purposes.” On January 26, 2017, the Central Coast Water Board adopted Resolution No. R3-2017-0004, which affirms the realization of the human right to water and the protection of human health as the Central Coast Water Board's top priorities.

The proposed general permit implements the human right to water by protecting the municipal and domestic supply (MUN) beneficial use of applicable receiving waters within the Central Coast Region. Additionally, this general permit recognizes the need for and facilitates streamlined regulatory processes for discharges associated with community drinking water systems by reference to State Water Board's Water Quality Order 2014-0194-DWQ, *Statewide NPDES Permit for Drinking Water System Discharges to Waters of the United States*.

Environmental Justice

Environmental Justice principles call for the fair treatment and meaningful involvement of all people regardless of race, color, national origin, or income in the development, adoption, implementation, and enforcement of all environmental laws, regulations, and policies that affect every community's natural resources and the places people live, work, play, and learn. The Central Coast Water Board implements regulatory activities and water quality projects in a manner that ensures the fair treatment of all people, including Underrepresented Communities. Underrepresented Communities include but are not limited to Disadvantaged Communities (DACs), Severely Disadvantaged Communities (SDACs), Economically Distressed Areas (EDAs), Tribes, Environmentally Disadvantaged Communities (EnvDACs), and members of Fringe Communities.⁷ The

⁷ Disadvantaged Community: a community with an annual median household income that is less than 80% of the statewide annual median household income (Public Resources Code section 80002(e)); Severely Disadvantaged Community: a community with a median household income of less than 60% of the statewide average. (Public Resources Code section 80002(n)); Economically Distressed Area: a municipality with a population of 20,000 persons or less, a rural county, or a reasonably isolated and divisible segment of a larger municipality where the segment of the population is 20,000 persons or less with an annual median household income that is less than 85% of the statewide median household income and with one or more of the following conditions as determined by the department: (1) financial hardship, (2) unemployment rate at least 2% higher than the statewide average, or (3) low population density. (Water Code section 79702(k)); Tribes: federally recognized Indian Tribes and California State Indian Tribes listed on the Native American Heritage Commission's California Tribal Consultation List; EnvDACs: CalEPA designates the top 25 percent scoring census tracts as DACs. Census tracts that

proposed general permit will provide consistent and equitable permitting oversight for limited-threat discharges regardless of project applicant or community status. The Central Coast Water Board is committed to providing all stakeholders the opportunity to participate in the public process and provide meaningful input to decisions that affect their communities. A map of census blocks identified as DAC within the Central Coast Region is found in Attachment 3.

Climate Change

The Central Coast faces the threat and the effects of climate change for the foreseeable and distant future. To proactively prepare and respond, the Central Coast Water Board has launched the Central Coast Water Board's Climate Action Initiative, which identifies how the Central Coast Water Board's work relates to climate change and prioritizes actions that improve water supply resiliency through water conservation and wastewater reuse and recycling; mitigate for and adapt to sea level rise and increased flooding; improve energy efficiency; and reduce greenhouse gas production. The Climate Action Initiative is consistent with the Governor's Executive Order B-30-15 and the State Water Board's Climate Change Resolution No. 2017-0012.⁸

The proposed general permit aligns with the Climate Action Initiative's objectives to mitigate risks to water quality associated with climate change. Discharges authorized through this general permit do not pose a significant threat to water quality. Regulating these discharges through the proposed general permit enables Central Coast Water Board staff to expedite and simplify the application process for dischargers and better utilize limited staff resources to support high priority projects that improve water resiliency including water recycling, consolidation, and climate adaption planning and implementation.

COMMENTS

The Central Coast Water Board publicly noticed the proposed general permit from October 12, 2022, through November 14, 2022, and received no public comments. The public notice was sent to all current enrollees in the two existing general permits and other persons known to be interested.

CONCLUSION

If adopted, the proposed general permit would protect water quality and beneficial uses while better utilizing staff resources to support projects with larger impacts to water quality and projects that advance various high-priority initiatives such as the Climate Action Initiative's goals of improving water resiliency and wastewater consolidation for

score the highest five percent of pollution burden scores but do not have an overall CalEnviroScreen score because of unreliable socioeconomic or health data are also designated as DACs (refer to the CalEnviroScreen 3.0 Mapping Tool or Results Excel Sheet); Fringe Community: communities that do not meet the established DAC, SDAC, and EDA definitions but can show that they score in the top 25 percent of either the Pollution Burden or Population Characteristics score using the CalEnviroScreen 3.0.

⁸ State Water Board's Climate Change Resolution No. 2017-0012 can be accessed online at: https://www.waterboards.ca.gov/board_decisions/adopted_orders/resolutions/2017/rs2017_0012.pdf

disadvantaged communities. The proposed general permit complies with the California Water Code and the Clean Water Act.

ATTACHMENTS

1. Proposed Waste Discharge Requirements Order No. R3-2022-0035, *General Permit for Discharges with Limited Threat to Water Quality* (NPDES No. CA993004)
2. Dischargers currently enrolled in the *General Permit for Discharges with Low Threat to Water Quality* (Order No. R3-2017-0042, NPDES No. CAG993001) and *General Permit for Discharges of Highly Treated Groundwater to Surface Waters* (Order No. R3-2016-0035, NPDES No. CAG993002)
3. Map of Disadvantaged Communities in the Central Coast Region

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